IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

MONDAY, THE TWENTY FIRST DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT
THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 16330 of 2002

Between:

Umakant Shakhai S/o late Gopinath Shakhai
Aged 44 years, Occu: Business, R/o. No. 10-6-554,
Near Chakramgudi, Brahmapuri,
Nizamabad.

..... PETITIONER

AND

1. Government of Andhra Pradesh rep. by
   Commissioner, Endowments Department,
   Boggulkunta, Hyderabad.
2. Neelakanteshwara Swamy Temple Trust Board rep by
   Chairman, Kanteshwar Locality of
   Nizamabad Town.
3. Neelakanteshwara Swamy Temple, Kanteshwar, rep by
   Executive Officer-cum-person in Management,
   Kanteshwar Locality of Nizamabad Town.
4. D. Narayana S/o Jagadeshwar,
   Aged 41 years, R/o 7-1-73, Opp Goshala Bhavan,
   Near Railway Gate, Nizamabad, Nizamabad District

(R4 is impleaded as per Cout Order dt 31/12/2004 in
WPMP 32740/04.)

RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue any appropriate Writ, order or direction preferably a Writ in the nature of Mandmaus, declaring the Notification published in "Eenadu Newspaper in its Nizamabad

Edition dated 13/8/2002, which was issued by the second and third respondents in pursuance of the proceedings No.A/04/16932/99 dt 29/5/2002 issued by the first respondent, wherein Ac. 3.09 gts of land in Survey Nos. 341 and 342 of Kanteshwar Village, Mandal & District Nizamabad has been put to Tender-cum-Public Auction on 28/8/2002, as illegal, arbitrary and violative of the provisions of the Andhra Pradesh (Telangana Area) Abblition of Inams Act, 1955 and consequently stay all further proceedings, including the auction in terms of the aforesaid Notification, pending disposal of the above writ petition.

Counsel for the Petitioner: MR.PRAKASH REDDY REPRESENTING B.SRINIVAS

Counsel for the Respondent No.1 GP FOR ENDOWMENTS

Counsel for the Respondents 2 AND 3: MR.RAVI KONDAVEETI

Counsel for the Respondent No.4: MR.E.MANOHER REPRESENTING CH.JANARDHAN REDDY.

The Court made the following:

ORDER:

Petitioner claiming entitlement to apply for an occupancy certificate under Section 4 of the Andhra Pradesh (Telangana Area) Abolition of Inams Act, 1955 (for short the 'Act') and

contending that the second respondent-temple, has without any legitimate title or right to the property, notified the property in an extent of Ac.03-09 gts in Sy.Nos.341 and 342 of Kanteshwar village, Mandal and District, Nizamabad for tender-cum-public auction, has filed the writ petition, in substance, seeking to injunct the third respondent-temple from proceeding with the sale of the property. The writ petition was filed on 21-08-2002 and a week thereafter, on 29-08-2002, the petitioner preferred an application under Section 4 of the Act to the Revenue Divisional Officer for an occupancy certificate in respect of the land in question. The Revenue Divisional Officer, Nizamabad, exercising the powers of the authority under Section 4 of the Act, by an order dated 09-07-2004, rejected the application of the petitioner recording that as the ownership of the land in question is vested with the temple, no occupancy certificate could be issued to the petitioner.

In the context of the elaborate representation submitted by the petitioner on 29-08-2002, the order of the Revenue Divisional Officer is laconic. Be that as it may, the petitioner has pursued the appellate remedy under Section 24(1) of the Act to the Joint Collector on 15-07-2004. The appeal is pending and the Joint Collector does not appear to have disposed of the appeal.

While the petitioner claims to be the successor of an earlier inamdar, who was granted a muntakhab in respect of the land in question subject to a condition that services should be rendered to the temple, the second respondent-temple sets up a competitive claim to have been granted the rights in respect of the land by the Nizam. In either case, such competing claims require to be adjudicated and a resolution recorded under the

provisions of the Act. As on date, the claim of the petitioner for an occupancy certificate has been rejected by the Revenue Divisional Officer concerned and the appeal therefrom is pending and, thus, the petitioner has no *in presenti* certification supporting his claim in the writ petition. As on the date of the institution of the writ petition, he had not even preferred a representation to the competent authorities under Section 4 of the Act for an occupancy certificate.

In the circumstances, on the date of the institution of the writ petition, there are no jurisdictional facts on the basis of which an order could have been issued by this Court interdicting the conduct of the second respondent-temple in putting the land in an extent of Ac.03-09 gts in Sy.Nos.341 and 342 of Kanteshwar village, Mandal and District, Nizamabad, to public auction, under Article 226 of the Constitution of India. There are disputatious areas of fact, the findings in respect of which are to be recorded primarily, at any rate, by the authorities under the provisions of the Act.

On the above analyses, the writ petition is dismissed. The petitioner is at liberty to pursue such remedies as are available to him in law including by way of any interlocutory application, in respect of the grievances urged herein and any other grievances that he may have in respect of the property in question. No costs.

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21-02-2005.

Lrkm.

To

1. The Commissioner,
   Government of Andhra Pradesh,
   Endowments Department,
   Boggulkunta, Hyderabad
2. 2 CCs to the Government Pleader for Endowments, High Court Buildings, High Court of A.P., Hyderabad.
3. 2 CD copies.
4. Neelakanteshwara Swamy Temple Trust Board rep by Chairman, Kanteshwar Locality of Nizamabad Town.
5. Neelakanteshwara Swamy Temple, Kanteshwar, rep by Executive Officer-cum-person in Management, Kanteshwar Locality of Nizamabad Town.